

**OFFICIAL MINUTES APRIL 10, 2013
CITY OF GUNNISON PLANNING AND ZONING COMMISSION
REGULAR MEETING**

7:00PM

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MEMBERS	PRESENT	ABSENT	EXCUSED
Carolyn Riggs, Chair	X		
Erik Niemeyer			X
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Greg Larson	X		
Councilor Ellen Harriman	X		

OTHERS PRESENT: Community Development Director Steve Westbay, Planning Technician Pam Cunningham, John Adkins Jr., John Adkins, Kelly McKinnis, and Paula Swensen.

I. CALL TO ORDER AT 7:03 PM BY CHAIR CAROLYN RIGGS

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. UNSCHEDULED CITIZENS. There were none.

IV. CU 13-1, SUBMITTED BY JOHN ADKINS TO TOPERATE A FOOD SERVICE WITHIN A TRAILER AS A TEMPRARY COMMERCIAL ACTIVITY IN THE CENTRAL BUSINESS DISTRICT (CBD).

Open Public Hearing. Chair Riggs opened the Public Hearing at 7:04 p.m.

Review of Process. Director Westbay reviewed the process for a Conditional Use.

The applicant, John Adkins, is proposing the operation of a food service trailer and retail goods as a temporary commercial activity at 129 East Tomichi Avenue located within the Central Business District. The legal description of the property is the west 62.5 feet of Lot 20, the west 62.5 feet of the south 15 feet of Lot 21, the west 45 feet of the north 10 feet of Lot 21, and the west 45 feet of Lots 22-24, Block 29 (Tract B, Reception #576577), Original Gunnison, City and County of Gunnison.

The proposed site is located in the Central Business District. The site is surrounded by commercial uses including the Arts Center, retail, restaurants, and professional services.

The food service and retail sales use is accessory to the primary use of a professional office (Gunnison Real Estate). This accessory use is considered to have a low impact on the surrounding neighborhood. The applicant is proposing to use the lawn area in the northeast portion of the property.

The *LDC* does not require setbacks, parking or landscaping in the Central Business District. The site provides ample space for the placement for the food service and retail sales.

There were no issues in the Staff Observations and no conflicts with the Review Standards.

Public Input. There was none.

Applicant Presentation. The applicant, John Adkins, addressed the Commission. He stated that he recently came to Gunnison and would like to offer a unique business to the community, mainly catering to families and children. [The business is to sell tropical flavored shaved ice.] He explained that the cart is 5 feet long with a small canopy; the trailer won't be on site. He would like to have a small table with some chairs. The cart will be located next to the Arts Center and ORSCH School. The idea is to offer a niche in the area and add to the downtown. Mr. Adkins stated that he would like to offer pottery for sale; that "while mom and dad are entertaining the kids would give them something to look at and promote my family's art work. It is classy and tasteful." He plans on being open 7 days a week from 10 am to 6pm and during festivals and parades. He would like to extend those hours during high traffic times or during the Art Walk.

Commissioner Ferchau observed that there haven't been time constraints on other food service carts. Director Westbay stated that there is flexibility in the Conditions.

Councilor Harriman asked if the cart will have access to electricity and the applicant replied that there will be electricity. Councilor Harriman asked if the cart will be on the street or on the lawn and the applicant replied that it will be on the lawn, under the trees, several feet back from the sidewalk.

Mr. Adkins stated that ice will be bought every day. He said that the Health Department says it is acceptable to purchase the ice daily and replenish it as needed. He has a commissary agreement with Stacy Murray, who is a caterer and is also licensed by the State. Mr. Adkins said that, depending on the decision of the Commission, he will obtain a public health license.

Commissioner Tocke observed that the application states that "the vendor is also seeking permission to use the public billboards around town to advertise and promote the business." He asked for clarification. Mr. Adkins clarified that he will be putting posters on bulletin boards [rather than billboards] around town. Councilor Harriman stated that the *Sign Code* allows off-premise signage, so technically he could advertise other places.

Public Input

Paula Swensen addressed the Commission. She is the property owner of 100 N. Main through 108 E. Tomichi and is also a renter next door to the property where the shaved ice cart is proposed to be located. She is in support of the applicant and business. She stated that she is willing to put flyers for the business on her building bulletin board.

Kelly McKinnis, owner of 129 E. Tomichi addressed the Commission. She stated she has signed paperwork to allow the business on her property. She stated she feels it is a good idea to pull people from Main Street onto Tomichi and the business will be a great addition to the Arts Center.

Staff Presentation. Director Westbay stated he has nothing to add. The Review Standard has been provided with the Findings and Conditions. Flexibility of hours is noted in Finding #3. He elaborated by saying that if there were loud music or some other disturbance the nuisance code would come into play.

Commission Discussion

Commissioner Tocke asked Mr. Adkins when he plans to start the business. The applicant responded that he is learning about the Gunnison weather—his goal was to open in early May. However, that will be contingent upon weather. He thinks he will probably open the first week of May, but it could be later.

Director Westbay said he would like to change the Condition to read: “The applicant must provide Community Development staff written confirmation that a State food service license has been issued prior to commencing operation if required by the State.” Mr. Adkins responded that “the State does consider ice to be food and also refrigeration of the flavors is necessary. That is why I got a commissary; to be sure flavors are secured each day.”

Chair Riggs asked Mr. Adkins if, during other auxiliary events, he will be on site [of the events] or stay at 129 E. Tomichi. For instance Sundays at 6 and the Car Show – they might not be downtown. Mr. Adkins said he has been exploring that option. He likes the idea of being on-site, on the parade route, and at festivals and events.

Commissioner Beda brought up the retail of durable goods at the cart (the porcelain housewares). He questioned if there is any benefit to the City if the items are made out-of-state and shipped directly to the consumer—there would be no sales tax revenue. He said he is concerned with non-food items being for sale at the cart and “would not want the brick and mortar owners downtown to be concerned. They could display the housewares in their stores. But, in this case, the consumer contacts the artist in Louisiana and she ships to them.” He said he is afraid of the precedence it would set for future vendor cart applications. He asked Mr. Adkins if the items will be sold on-site or if it is a display. Mr. Adkins replied that it is a display, and that “the idea is that she sells made-to-order. The idea was to have a display and to let them pick the piece. I can go on-line and the patron can communicate with the artist on Skype. I see your point. I was trying to offer something that is elegant and classy that is custom and unique. The customer can call her later; it will be delivered to your home or to me. I will facilitate that connection.”

Chair Riggs asked if Mr. Adkins foresees actual sales at that site at any time. Mr. Adkins responded that “I will not be collecting the money. I am doing display and facilitating sales.”

Director Westbay stated that “one of the important elements of our job is to protect sales tax for the City. This is a low-key situation. If we see a proliferation of draining the sales tax, staff would address it then. Let’s observe and see how it goes.” Commissioner Beda said he doesn’t have a problem in this case, it is incidental. We need to look at applications on an individual basis.

Close Public Hearing. Chair Riggs closed the public hearing at 7:32 p.m.

ACTION

During the regular Planning and Zoning Commission meeting held on April 10, 2013, Commissioner Larson moved, and Councilor Harriman seconded, and the Commission voted to APPROVE Conditional Use Application CU 13-1, submitted by John Adkins for the operation of a seasonal food service and retail sales at 129 East Tomichi Avenue, based on the following findings of fact:

FINDINGS OF FACT:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that this Conditional Use application is for a temporary commercial activity of a food service and retail sales in the Central Business District.
3. The Planning and Zoning Commission finds that the hours of operation are Monday through Sunday 10 a.m. to 6 p.m. but hours may change as needs of the business change through time.
4. The Planning and Zoning Commission finds that the food service and retail sales will mainly be located at 129 East Tomichi Avenue and in conjunction with planned summer events.
5. The Planning and Zoning Commission finds that the food service and retail sales use is compatible with neighborhood uses.
6. The Planning and Zoning Commission finds that the food service will operated under a License to Operate a Retail Food Establishment by the Colorado Department of Public Health and Environment.
7. The Planning and Zoning Commission finds that the applicant has state and city sales tax licenses.
8. The Planning and Zoning Commission finds that a food service and retail sales will not be a detriment to the community's health, safety and welfare.

CONDITION:

The applicant must provide Community Development staff written confirmation that a State food service license has been issued prior to commencing operation if required by the State.

Roll Call Yes: Ferchau, Riggs, Beda, Harriman, Tocke, Larson
Roll Call No:
Roll Call Recuse:
Motion carried

V. UPDATE TO THE DRAFT NON-MOTORIZED TRANSPORTATION PLAN

Director Westbay provided some background on the status of the *Non-Motorized Transportation Plan*. Staff did outreach after the [October 10, 2012] presentation to the Commission which included a survey at Western, presentations to the Gunnison Trails Commission and the Sage-grouse Strategic Committee, and coffee house presentations. The plan was put on hold pending the listing proposal on the Sage-grouse and a definitive decision on the Candidate Conservation Agreement (CCA). The CCA is in final form but hasn't been adopted yet. The final language of the CCA has been incorporated into the plan to address regional coordination.

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Director Westbay explained that Gunnison is a hub for access to public lands and it is important to include the element of regional cooperation in conjunction with the listing. Within the CCA, the BLM has targeted Hartman Rocks and VanTuyl Ranch as important components for recreation. The plan does address the Ranch. Director Westbay discussed the resource management theory, protection of habitat for the bird, and the need to focus recreation in certain areas. The BLM is saying that recreation can occur but they want to focus it around the city hub.

The draft *Non-motorized Transportation Plan* will be presented to City Council on April 16th and Council will be asked for ratification at a public hearing. Reproduction of the document is expensive. If any members are interested in a hard copy, we will make some. It is also available on the web-site.

VI. CONSIDERATION OF THE MARCH 13, 2013 MEETING MINUTES. Commissioner Larson moved and Commissioner Tocke seconded to approve the March 13, 2013 meeting minutes as presented.

Roll Call Yes: Ferchau, Riggs, Beda, Harriman, Tocke, Larson

Roll Call No:

Roll Call Abstain:

Motion carried

VII. COUNCIL UPDATE. Councilor Harriman updated the Commission on recent Council business. The Council:

- held three public hearings which were approved by ordinance;
 - utility service deposit interest and connection/reconnection fees
 - adoption of the City's Flood Damage Prevention Regulations
 - Text Amendment for Multi-tenant Signs
- took action to approve street improvement bids and automatic water meter bids;
- approved funding for the Sprint triathlon and Carvin' Up Colorado events; and,
- set public hearings for May 10th for liquor licenses for two new restaurants – the Sherpa Café and the I-Bar.

Other Council business:

- the Tractor Supply Company has started moving dirt;
- the John Roberts building has been sold to Family Dollar;
- the City has not heard about the DOLA grant on the Police Department/Dispatch Center;
- there will be a reveal of the new Western logo on the 19th;
- the 12th is the last day for petitions for City Council to be picked up or turned in;
- the April 30th City Council meeting is cancelled; and,
- the report from the Mayors and Managers is that everyone is seeing an increase in sales tax revenue.

VIII. COMMISSIONER COMMENTS.

- Chair Riggs attended the Farm to Table conference and she reported it was fantastic. She looks forward to seeing more events like that;
- Commissioner Tocke said he attended the Farm to Table dinner and people appreciated that it was free [partially due to funding from the City];

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- Commissioner Ferchau asked about the seed swap and Chair Riggs explained it will be at the Gunnison Gardner's Festival on April 20th from 9-4 at the Fred Field Center. There will be vendors and farmers there.
- Commissioner Ferchau said that real estate sales are more active now. The first quarter of 2013 was below last year on closings but activity picked up in March and sales increased, with closings in April. Inventories are low, so it may be a better year from a seller's perspective. Commissioner Larson asked if the sales are foreclosures. Commissioner Ferchau replied that the foreclosures are about over, but there are some short sales. There is still some inventory in limbo; many people are upside down on their mortgages, but unless they are in a need to sell many are trying to ride out the market. It is encouraging. He also said that land prices are so low people are thinking about building.

IX. PLANNING UPDATE. Director Westbay updated the Commission on recent activity in the Community Development Office. Staff has been working on the following:

- a Marijuana Ordinance (a text amendment will come to P&Z after reorganization of Council); it is the provision associated with the Ordinance prohibiting commercial activity and residential growth and processing;
- The *Non-motorized Transportation Plan*;
- dealing with the National Forest Service on a stairwell they built in the City right-of-way on North Colorado (they will be given the option of a license agreement);
- review of the *Gunnison Rising Master Drainage Plan* (there will be a Text Amendment to include it in the PUD);
 - Commissioner Ferchau asked what the rationale was behind postponing turning on the City ditches. Councilor Harriman responded that the purpose for postponing turning the ditches on until May 20th is that 1000 acre feet of water will be available to Uncompahgre water users and they will not call out the water until the middle of summer. There is a signed contract with Uncompahgre water users and this is a very unique thing that the City has done. It will benefit everyone.
- Community Cleanup is on the 20th; and
- the Bike Rodeo will be on May 4th at Lake School.

X. ADJOURN TO WORK SESSION. Chair Riggs adjourned the meeting to a work session at 8:07 p.m.

Carolyn Riggs, Chair

Attest:

Pam Cunningham, Secretary